

## PATENT COOPERATION TREATY

PCT

## NOTIFICATION OF ELECTION

(PCT Rule 61.2)

From the INTERNATIONAL BUREAU

To:

Assistant Commissioner for Patents  
United States Patent and Trademark  
Office  
Box PCT  
Washington, D.C.20231  
ETATS-UNIS D'AMERIQUE

in its capacity as elected Office

Date of mailing (day/month/year)

10 April 2000 (10.04.00)

International application No.

PCT/IB99/01460

Applicant's or agent's file reference

P021075WO

International filing date (day/month/year)

12 August 1999 (12.08.99)

Priority date (day/month/year)

12 August 1998 (12.08.98)

Applicant

EMBIL, Koral et al

1. The designated Office is hereby notified of its election made:



in the demand filed with the International Preliminary Examining Authority on:

08 March 2000 (08.03.00)



in a notice effecting later election filed with the International Bureau on:

2. The election ☒ was

was not

made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).

The International Bureau of WIPO  
34, chemin des Colombettes  
1211 Geneva 20, Switzerland

Facsimile No.: (41-22) 740.14.35

Authorized officer

Juan Cruz

Telephone No.: (41-22) 338.83.38

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P021075WO	<b>FOR FURTHER ACTION</b>	See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)
International application No. PCT/IB99/01460	International filing date (day/month/year) 12/08/1999	Priority date (day/month/year) 12/08/1998
International Patent Classification (IPC) or national classification and IPC A61K31/18		
Applicant EDKO TRADING AND REPRESENTATION COMPANY LTD et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.



2. This REPORT consists of a total of 4 sheets, including this cover sheet.

- ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 08/03/2000	Date of completion of this report 27.10.2000
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized officer Escolar Blasco, P Telephone No. +49 89 2399 7331 

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No. PCT/IB99/01460

## I. Basis of the report

1. This report has been drawn on the basis of (*substitute sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.*):

### Description, pages:

1-7 as originally filed

### Claims, No.:

1-18 as originally filed

2. The amendments have resulted in the cancellation of:

- ☐ the description, pages:  
☐ the claims, Nos.:  
☐ the drawings, sheets:

3. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)):

4. Additional observations, if necessary:

## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. Statement

Novelty (N)	Yes:	Claims	1-18
	No:	Claims	
Inventive step (IS)	Yes:	Claims	1-18
	No:	Claims	
Industrial applicability (IA)	Yes:	Claims	1-18
	No:	Claims	

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. PCT/IB99/01460

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**2. Citations and explanations**

**see separate sheet**

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT - SEPARATE SHEET**

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International application No. PCT/IB99/01460

**Comments on item V**

1. Having regard to the present prior art the subject-matter of claims 1-18 seems to be novel, since none of the documents cited in the search report describes either a nimesulide composition comprising glyceryl monoolein in an amount of 17-59%, nor a glyceryl monoolein-solvent phase with a crystal structure. The preparation process has also not been described.
2. D1 (EP-A-0 812 587) relates to compositions comprising 0.1-10% nimesulide, 0.5-60% percutaneous enhancer, 0-12% surfactant (glyceryl monooleate, among others), 0.2-19% gelling agent and 5-97% vehicle/bases.  
D2 (US-A-5 716 609) discloses compositions containing the same ranges for each ingredient. Examples are identical in both applications.
- 2.1 These documents differ from the subject-matter of claims 1-14 in the amounts of the ingredients forming the composition, and specifically the amount of glyceryl mono-oleate. The technical effect of this difference is the obtention of compositions which are non-staining and easily absorbable.  
The technical problem to be solved seem thus to be: how to provide non-staining and better absorbable nimesulide compositions. Neither D1 nor D2 (regarded as the closest prior art documents) provide a solution to the problem. This is shown in the tests provided by the Applicant, wherein formulations from D1 and D2 are compared with compositions prepared according to the present international application.  
Hence, the solution proposed in claims 1-14 appears to involve an inventive effort.
- 2.2 The methods of claims 15-18 have not been suggested by the available prior art.

# INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/IB 99/01460

Patent document cited in search report		Publication date	Patent family member(s)	Publication date
EP 0812587	A	17-12-1997	AU 696767 B	17-09-1998
			CA 2186919 A	01-04-1998
			CZ 9603165 A	13-05-1998
			HU 9601443 A	28-04-1998
			JP 10139661 A	26-05-1998
			NO 302334 B	23-02-1998
			NZ 299500 A	24-02-1997
			AU 6796096 A	09-04-1997
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			CA 2188703 A	24-04-1998
			CZ 9603166 A	13-05-1998
			EP 0812591 A	17-12-1997
			JP 2875988 B	31-03-1999
			JP 10130143 A	19-05-1998
			NO 964189 A	06-04-1998
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			AU 6799396 A	09-04-1997
			HU 9601442 A	28-04-1997
EP 0782855	A	09-07-1997	US 5688829 A	18-11-1998
			AU 701740 B	04-02-1999
			AU 3619295 A	02-05-1996
			BG 101526 A	30-01-1998
			BR 9509183 A	30-12-1997
			CZ 9701703 A	14-01-1998
			DE 782855 T	28-05-1998
			FI 972362 A	25-07-1997
			WO 9712608 A	10-04-1997
			JP 2894843 B	24-05-1999
			LT 97100 A, B	29-12-1997
			LV 11966 A	20-02-1998
			LV 11966 B	20-04-1998
			NO 972537 A	04-06-1997
			NZ 327092 A	29-09-1999
			PL 320534 A	13-10-1997
			SI 9620016 A	31-12-1997
			SK 70497 A	08-10-1997
			US 5837735 A	17-11-1998
			CA 2201722 A	18-04-1996
EP 0812591	A	17-12-1997	ES 2110375 T	16-02-1998
			WO 9611002 A	18-04-1996
			AU 693720 B	02-07-1998
			CA 2188703 A	24-04-1998
			CZ 9603166 A	13-05-1998
			JP 2875988 B	31-03-1999
			JP 10130143 A	19-05-1998
			NO 964189 A	06-04-1998
			NZ 299481 A	22-09-1997
			AU 6799396 A	09-04-1998
US 3840597	A	08-10-1974	HU 9601442 A	28-04-1997
			US 5716609 A	10-02-1998
			US 5688829 A	18-11-1997
			AR 206496 A	30-07-1976
			AT 332862 B	25-10-1976
			AT 79175 A	15-02-1976

# INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/IB 99/01460

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
US 3840597 A		AT 330740 B	12-07-1976
		AT 583473 A	15-10-1975
		AU 5758673 A	09-01-1975
		BE 801812 A	02-01-1974
		CA 1009663 A	03-05-1977
		CH 585705 A	15-03-1977
		CH 586667 A	15-04-1977
		DD 110262 A	12-12-1974
		DE 2333643 A	24-01-1974
		ES 416223 A	01-09-1976
		ES 440989 A	01-07-1977
		FI 61877 B	30-06-1982
		FR 2190460 A	01-02-1974
		GB 1435755 A	12-05-1976
		IE 38157 B	04-01-1978
		JP 57140712 A	31-08-1982
		JP 1202851 C	25-04-1984
		JP 57136560 A	23-08-1982
		JP 58035989 B	05-08-1983
		JP 1221342 C	26-07-1984
		JP 49042640 A	22-04-1974
		JP 58050984 B	14-11-1983
		JP 1265131 C	27-05-1985
		JP 59031755 A	20-02-1984
		JP 59044311 B	29-10-1984
		NL 7308661 A	07-01-1974
		OA 4433 A	15-03-1980
		SE 417089 B	23-02-1981
		ZA 7303807 A	24-04-1974
		BE 765558 A	11-10-1971
		CA 1010890 A	24-05-1977
		CA 1023380 A	27-12-1977
		CA 1024771 A	24-01-1978
		CH 557804 A	15-01-1975
		DE 2118190 A	09-03-1972
		GB 1306564 A	14-02-1973
		IT 1044215 B	20-03-1980
		NL 7104420 A,B,	15-10-1971
		US 3906024 A	16-09-1975
		US 4164412 A	14-08-1979

# PCT

## INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference <b>P021075W0</b>	<b>FOR FURTHER ACTION</b> see Notification of Transmittal of International Search Report (Form PCT/ISA/220) as well as, where applicable, item 5 below.	
International application No. <b>PCT/IB 99/ 01460</b>	International filing date (day/month/year) <b>12/08/1999</b>	(Earliest) Priority Date (day/month/year) <b>12/08/1998</b>
Applicant  <b>EDKO TRADING AND REPRESENTATION COMPANY ...et. al.</b>		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 2 sheets.

☒ It is also accompanied by a copy of each prior art document cited in this report.

### 1. Basis of the report

- a. With regard to the **language**, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ the international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

- b. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international search was carried out on the basis of the sequence listing :

☐ contained in the international application in written form.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority in written form.

☐ furnished subsequently to this Authority in computer readable form.

☐ the statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

☐ the statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

2. ☐ **Certain claims were found unsearchable** (See Box I).

3. ☐ **Unity of invention is lacking** (see Box II).

4. With regard to the **title**,

☐ the text is approved as submitted by the applicant.

☒ the text has been established by this Authority to read as follows:

**NIMESULIDE CONTAINING TOPICAL PHARMACEUTICAL COMPOSITIONS**

5. With regard to the **abstract**,

☒ the text is approved as submitted by the applicant.

☐ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box III. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. The figure of the **drawings** to be published with the abstract is Figure No.

☐ as suggested by the applicant.

☐ because the applicant failed to suggest a figure.

☐ because this figure better characterizes the invention.

☐ None of the figures.



## INTERNATIONAL SEARCHREPORT

International Application No

/IB 99/01460

## A. CLASSIFICATION OF SUBJECT MATTER

IPC 7 A61K31/18 A61K9/127 A61K47/14 A61K47/10

According to International Patent Classification (IPC) or to both national classification and IPC

## B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 A61K

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

## C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category °	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X,Y	EP 0 812 587 A (PANACEA BIOTEC LTD) 17 December 1997 (1997-12-17)  the whole document ---	1,3, 7-10,12, 14-18
X,Y	US 5 716 609 A (JAIN RAJESH ET AL) 10 February 1998 (1998-02-10)  the whole document ---	1,3, 7-10,12, 14-18
A	EP 0 782 855 A (HELSINN HEALTHCARE S A) 9 July 1997 (1997-07-09) ---	
A	EP 0 812 591 A (PANACEA BIOTEC LTD) 17 December 1997 (1997-12-17) ---	
A	US 3 840 597 A (MOORE G ET AL) 8 October 1974 (1974-10-08) -----	



Further documents are listed in the continuation of box C.



Patent family members are listed in annex.

## ° Special categories of cited documents :

"A" document defining the general state of the art which is not considered to be of particular relevance

"E" earlier document but published on or after the international filing date

"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

"&amp;" document member of the same patent family

Date of the actual completion of the international search

5 October 1999

Date of mailing of the international search report

12/10/1999

Name and mailing address of the ISA

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Authorized officer

Fischer, W

## INTERNATIONAL SEARCHREPORT

Information on patent family members

International Application No

PCT/IB 99/01460

Patent document cited in search report		Publication date	Patent family member(s)	Publication date
EP 0812587	A	17-12-1997	AU 696767 B	17-09-1998
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			NO 972537 A	04-06-1997
			NZ 327092 A	29-09-1999
			PL 320534 A	13-10-1997
			SI 9620016 A	31-12-1997
			SK 70497 A	08-10-1997
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		ES 416223 A	01-09-1976
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		FI 61877 B	30-06-1982
		FR 2190460 A	01-02-1974
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		IE 38157 B	04-01-1978
		JP 57140712 A	31-08-1982
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		JP 58035989 B	05-08-1983
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		JP 49042640 A	22-04-1974
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		NL 7308661 A	07-01-1974
		OA 4433 A	15-03-1980
		SE 417089 B	23-02-1981
		ZA 7303807 A	24-04-1974
		BE 765558 A	11-10-1971
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		CA 1024771 A	24-01-1978
		CH 557804 A	15-01-1975
		DE 2118190 A	09-03-1972
		GB 1306564 A	14-02-1973
		IT 1044215 B	20-03-1980
		NL 7104420 A,B,	15-10-1971
		US 3906024 A	16-09-1975
		US 4164412 A	14-08-1979